



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

HB4024

Introduced 1/14/2004, by Paul D. Froehlich, Kevin Joyce, James
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SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-4
730 ILCS 5/5-5-3

from Ch. 38, par. 12-4
from Ch. 38, par. 1005-5-3

Amends the Criminal Code of 1961. Provides that the commission of a battery on a person known to be a sports official or coach at any level of competition and in which the act causing harm to the sports official or coach occurred within an athletic facility or within the immediate vicinity of the facility at which the sports official or coach was an active participant in the athletic contest held at the facility is aggravated battery. Provides that the penalty is a Class 3 felony. Amends the Unified Code of Corrections. Requires a person convicted of or placed on supervision for a violation to undergo an alcohol or drug abuse evaluation. Also provides for mandatory minimum fines for a violation of this offense. Effective immediately.

LRB093 16642 RLC 42293 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by
5 changing Section 12-4 as follows:

6 (720 ILCS 5/12-4) (from Ch. 38, par. 12-4)

7 Sec. 12-4. Aggravated Battery.

8 (a) A person who, in committing a battery, intentionally or
9 knowingly causes great bodily harm, or permanent disability or
10 disfigurement commits aggravated battery.

11 (b) In committing a battery, a person commits aggravated
12 battery if he or she:

13 (1) Uses a deadly weapon other than by the discharge of
14 a firearm;

15 (2) Is hooded, robed or masked, in such manner as to
16 conceal his identity;

17 (3) Knows the individual harmed to be a teacher or
18 other person employed in any school and such teacher or
19 other employee is upon the grounds of a school or grounds
20 adjacent thereto, or is in any part of a building used for
21 school purposes;

22 (4) Knows the individual harmed to be a supervisor,
23 director, instructor or other person employed in any park
24 district and such supervisor, director, instructor or
25 other employee is upon the grounds of the park or grounds
26 adjacent thereto, or is in any part of a building used for
27 park purposes;

28 (5) Knows the individual harmed to be a caseworker,
29 investigator, or other person employed by the State
30 Department of Public Aid, a County Department of Public
31 Aid, or the Department of Human Services (acting as
32 successor to the Illinois Department of Public Aid under

1 the Department of Human Services Act) and such caseworker,
2 investigator, or other person is upon the grounds of a
3 public aid office or grounds adjacent thereto, or is in any
4 part of a building used for public aid purposes, or upon
5 the grounds of a home of a public aid applicant, recipient,
6 or any other person being interviewed or investigated in
7 the employee's discharge of his duties, or on grounds
8 adjacent thereto, or is in any part of a building in which
9 the applicant, recipient, or other such person resides or
10 is located;

11 (6) Knows the individual harmed to be a peace officer,
12 a community policing volunteer, a correctional institution
13 employee, an employee of the Department of Human Services
14 supervising or controlling sexually dangerous persons or
15 sexually violent persons, or a fireman while such officer,
16 volunteer, employee or fireman is engaged in the execution
17 of any official duties including arrest or attempted
18 arrest, or to prevent the officer, volunteer, employee or
19 fireman from performing official duties, or in retaliation
20 for the officer, volunteer, employee or fireman performing
21 official duties, and the battery is committed other than by
22 the discharge of a firearm;

23 (7) Knows the individual harmed to be an emergency
24 medical technician - ambulance, emergency medical
25 technician - intermediate, emergency medical technician -
26 paramedic, ambulance driver, other medical assistance,
27 first aid personnel, or hospital personnel engaged in the
28 performance of any of his or her official duties, or to
29 prevent the emergency medical technician - ambulance,
30 emergency medical technician - intermediate, emergency
31 medical technician - paramedic, ambulance driver, other
32 medical assistance, first aid personnel, or hospital
33 personnel from performing official duties, or in
34 retaliation for performing official duties;

35 (8) Is, or the person battered is, on or about a public
36 way, public property or public place of accommodation or

1 amusement;

2 (9) Knows the individual harmed to be the driver,
3 operator, employee or passenger of any transportation
4 facility or system engaged in the business of
5 transportation of the public for hire and the individual
6 assaulted is then performing in such capacity or then using
7 such public transportation as a passenger or using any area
8 of any description designated by the transportation
9 facility or system as a vehicle boarding, departure, or
10 transfer location;

11 (10) Knowingly and without legal justification and by
12 any means causes bodily harm to an individual of 60 years
13 of age or older;

14 (11) Knows the individual harmed is pregnant;

15 (12) Knows the individual harmed to be a judge whom the
16 person intended to harm as a result of the judge's
17 performance of his or her official duties as a judge;

18 (13) Knows the individual harmed to be an employee of
19 the Illinois Department of Children and Family Services
20 engaged in the performance of his authorized duties as such
21 employee;

22 (14) Knows the individual harmed to be a person who is
23 physically handicapped;

24 (15) Knowingly and without legal justification and by
25 any means causes bodily harm to a merchant who detains the
26 person for an alleged commission of retail theft under
27 Section 16A-5 of this Code. In this item (15), "merchant"
28 has the meaning ascribed to it in Section 16A-2.4 of this
29 Code;

30 (16) Is, or the person battered is, in any building or
31 other structure used to provide shelter or other services
32 to victims or to the dependent children of victims of
33 domestic violence pursuant to the Illinois Domestic
34 Violence Act of 1986 or the Domestic Violence Shelters Act,
35 or the person battered is within 500 feet of such a
36 building or other structure while going to or from such a

1 building or other structure. "Domestic violence" has the
2 meaning ascribed to it in Section 103 of the Illinois
3 Domestic Violence Act of 1986. "Building or other structure
4 used to provide shelter" has the meaning ascribed to
5 "shelter" in Section 1 of the Domestic Violence Shelters
6 Act; ~~or~~

7 (17) Knows the individual harmed to be an employee of a
8 police or sheriff's department engaged in the performance
9 of his or her official duties as such employee; or.

10 (18) Knows the individual harmed to be a sports
11 official or coach at any level of competition and the act
12 causing harm to the sports official or coach occurred
13 within an athletic facility or within the immediate
14 vicinity of the athletic facility at which the sports
15 official or coach was an active participant in the athletic
16 contest held at the athletic facility. For the purposes of
17 this paragraph (18), "sports official" means a person at an
18 athletic contest who enforces the rules of the contest,
19 such as an umpire or referee, and "coach" means a person
20 recognized as a coach by the sanctioning authority that
21 conducted the athletic contest.

22 For the purpose of paragraph (14) of subsection (b) of this
23 Section, a physically handicapped person is a person who
24 suffers from a permanent and disabling physical
25 characteristic, resulting from disease, injury, functional
26 disorder or congenital condition.

27 (c) A person who administers to an individual or causes him
28 to take, without his consent or by threat or deception, and for
29 other than medical purposes, any intoxicating, poisonous,
30 stupefying, narcotic, anesthetic, or controlled substance
31 commits aggravated battery.

32 (d) A person who knowingly gives to another person any food
33 that contains any substance or object that is intended to cause
34 physical injury if eaten, commits aggravated battery.

35 (d-3) A person commits aggravated battery when he or she
36 knowingly and without lawful justification shines or flashes a

1 laser gunsight or other laser device that is attached or
2 affixed to a firearm, or used in concert with a firearm, so
3 that the laser beam strikes upon or against the person of
4 another.

5 (d-5) An inmate of a penal institution or a sexually
6 dangerous person or a sexually violent person in the custody of
7 the Department of Human Services who causes or attempts to
8 cause a correctional employee of the penal institution or an
9 employee of the Department of Human Services to come into
10 contact with blood, seminal fluid, urine, or feces, by
11 throwing, tossing, or expelling that fluid or material commits
12 aggravated battery. For purposes of this subsection (d-5),
13 "correctional employee" means a person who is employed by a
14 penal institution.

15 (e) Sentence.

16 Aggravated battery is a Class 3 felony, except a violation
17 of subsection (a) is a Class 2 felony when the person knows the
18 individual harmed to be a peace officer engaged in the
19 execution of any of his or her official duties, or the battery
20 is to prevent the officer from performing his or her official
21 duties, or in retaliation for the officer performing his or her
22 official duties.

23 (Source: P.A. 92-16, eff. 6-28-01; 92-516, eff. 1-1-02; 92-841,
24 eff. 8-22-02; 92-865, eff. 1-3-03; 93-83, eff. 7-2-03.)

25 Section 10. The Unified Code of Corrections is amended by
26 changing Section 5-5-3 as follows:

27 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

28 Sec. 5-5-3. Disposition.

29 (a) Every person convicted of an offense shall be sentenced
30 as provided in this Section.

31 (b) The following options shall be appropriate
32 dispositions, alone or in combination, for all felonies and
33 misdemeanors other than those identified in subsection (c) of
34 this Section:

- 1 (1) A period of probation.
- 2 (2) A term of periodic imprisonment.
- 3 (3) A term of conditional discharge.
- 4 (4) A term of imprisonment.
- 5 (5) An order directing the offender to clean up and
6 repair the damage, if the offender was convicted under
7 paragraph (h) of Section 21-1 of the Criminal Code of 1961
8 (now repealed).
- 9 (6) A fine.
- 10 (7) An order directing the offender to make restitution
11 to the victim under Section 5-5-6 of this Code.
- 12 (8) A sentence of participation in a county impact
13 incarceration program under Section 5-8-1.2 of this Code.

14 Whenever an individual is sentenced for an offense based
15 upon an arrest for a violation of Section 11-501 of the
16 Illinois Vehicle Code, or a similar provision of a local
17 ordinance, and the professional evaluation recommends remedial
18 or rehabilitative treatment or education, neither the
19 treatment nor the education shall be the sole disposition and
20 either or both may be imposed only in conjunction with another
21 disposition. The court shall monitor compliance with any
22 remedial education or treatment recommendations contained in
23 the professional evaluation. Programs conducting alcohol or
24 other drug evaluation or remedial education must be licensed by
25 the Department of Human Services. However, if the individual is
26 not a resident of Illinois, the court may accept an alcohol or
27 other drug evaluation or remedial education program in the
28 state of such individual's residence. Programs providing
29 treatment must be licensed under existing applicable
30 alcoholism and drug treatment licensure standards.

31 In addition to any other fine or penalty required by law,
32 any individual convicted of a violation of Section 11-501 of
33 the Illinois Vehicle Code, Section 5-7 of the Snowmobile
34 Registration and Safety Act, Section 5-16 of the Boat
35 Registration and Safety Act, or a similar provision of local
36 ordinance, whose operation of a motor vehicle while in

1 violation of Section 11-501, Section 5-7, Section 5-16, or such
2 ordinance proximately caused an incident resulting in an
3 appropriate emergency response, shall be required to make
4 restitution to a public agency for the costs of that emergency
5 response. Such restitution shall not exceed \$1,000 per public
6 agency for each such emergency response. For the purpose of
7 this paragraph, emergency response shall mean any incident
8 requiring a response by: a police officer as defined under
9 Section 1-162 of the Illinois Vehicle Code; a fireman carried
10 on the rolls of a regularly constituted fire department; and an
11 ambulance as defined under Section 3.85 of the Emergency
12 Medical Services (EMS) Systems Act.

13 Neither a fine nor restitution shall be the sole
14 disposition for a felony and either or both may be imposed only
15 in conjunction with another disposition.

16 (c) (1) When a defendant is found guilty of first degree
17 murder the State may either seek a sentence of imprisonment
18 under Section 5-8-1 of this Code, or where appropriate seek
19 a sentence of death under Section 9-1 of the Criminal Code
20 of 1961.

21 (2) A period of probation, a term of periodic
22 imprisonment or conditional discharge shall not be imposed
23 for the following offenses. The court shall sentence the
24 offender to not less than the minimum term of imprisonment
25 set forth in this Code for the following offenses, and may
26 order a fine or restitution or both in conjunction with
27 such term of imprisonment:

28 (A) First degree murder where the death penalty is
29 not imposed.

30 (B) Attempted first degree murder.

31 (C) A Class X felony.

32 (D) A violation of Section 401.1 or 407 of the
33 Illinois Controlled Substances Act, or a violation of
34 subdivision (c) (1) or (c) (2) of Section 401 of that Act
35 which relates to more than 5 grams of a substance
36 containing heroin or cocaine or an analog thereof.

1 (E) A violation of Section 5.1 or 9 of the Cannabis
2 Control Act.

3 (F) A Class 2 or greater felony if the offender had
4 been convicted of a Class 2 or greater felony within 10
5 years of the date on which the offender committed the
6 offense for which he or she is being sentenced, except
7 as otherwise provided in Section 40-10 of the
8 Alcoholism and Other Drug Abuse and Dependency Act.

9 (G) Residential burglary, except as otherwise
10 provided in Section 40-10 of the Alcoholism and Other
11 Drug Abuse and Dependency Act.

12 (H) Criminal sexual assault.

13 (I) Aggravated battery of a senior citizen.

14 (J) A forcible felony if the offense was related to
15 the activities of an organized gang.

16 Before July 1, 1994, for the purposes of this
17 paragraph, "organized gang" means an association of 5
18 or more persons, with an established hierarchy, that
19 encourages members of the association to perpetrate
20 crimes or provides support to the members of the
21 association who do commit crimes.

22 Beginning July 1, 1994, for the purposes of this
23 paragraph, "organized gang" has the meaning ascribed
24 to it in Section 10 of the Illinois Streetgang
25 Terrorism Omnibus Prevention Act.

26 (K) Vehicular hijacking.

27 (L) A second or subsequent conviction for the
28 offense of hate crime when the underlying offense upon
29 which the hate crime is based is felony aggravated
30 assault or felony mob action.

31 (M) A second or subsequent conviction for the
32 offense of institutional vandalism if the damage to the
33 property exceeds \$300.

34 (N) A Class 3 felony violation of paragraph (1) of
35 subsection (a) of Section 2 of the Firearm Owners
36 Identification Card Act.

1 (O) A violation of Section 12-6.1 of the Criminal
2 Code of 1961.

3 (P) A violation of paragraph (1), (2), (3), (4),
4 (5), or (7) of subsection (a) of Section 11-20.1 of the
5 Criminal Code of 1961.

6 (Q) A violation of Section 20-1.2 or 20-1.3 of the
7 Criminal Code of 1961.

8 (R) A violation of Section 24-3A of the Criminal
9 Code of 1961.

10 (S) A violation of Section 11-501(c-1)(3) of the
11 Illinois Vehicle Code.

12 (T) A second or subsequent violation of paragraph
13 (6.6) of subsection (a), subsection (c-5), or
14 subsection (d-5) of Section 401 of the Illinois
15 Controlled Substances Act.

16 (3) A minimum term of imprisonment of not less than 5
17 days or 30 days of community service as may be determined
18 by the court shall be imposed for a second violation
19 committed within 5 years of a previous violation of Section
20 11-501 of the Illinois Vehicle Code or a similar provision
21 of a local ordinance. In the case of a third or subsequent
22 violation committed within 5 years of a previous violation
23 of Section 11-501 of the Illinois Vehicle Code or a similar
24 provision of a local ordinance, a minimum term of either 10
25 days of imprisonment or 60 days of community service shall
26 be imposed.

27 (4) A minimum term of imprisonment of not less than 10
28 consecutive days or 30 days of community service shall be
29 imposed for a violation of paragraph (c) of Section 6-303
30 of the Illinois Vehicle Code.

31 (4.1) A minimum term of 30 consecutive days of
32 imprisonment, 40 days of 24 hour periodic imprisonment or
33 720 hours of community service, as may be determined by the
34 court, shall be imposed for a violation of Section 11-501
35 of the Illinois Vehicle Code during a period in which the
36 defendant's driving privileges are revoked or suspended,

1 where the revocation or suspension was for a violation of
2 Section 11-501 or Section 11-501.1 of that Code.

3 (4.2) Except as provided in paragraph (4.3) of this
4 subsection (c), a minimum of 100 hours of community service
5 shall be imposed for a second violation of Section 6-303 of
6 the Illinois Vehicle Code.

7 (4.3) A minimum term of imprisonment of 30 days or 300
8 hours of community service, as determined by the court,
9 shall be imposed for a second violation of subsection (c)
10 of Section 6-303 of the Illinois Vehicle Code.

11 (4.4) Except as provided in paragraph (4.5) and
12 paragraph (4.6) of this subsection (c), a minimum term of
13 imprisonment of 30 days or 300 hours of community service,
14 as determined by the court, shall be imposed for a third or
15 subsequent violation of Section 6-303 of the Illinois
16 Vehicle Code.

17 (4.5) A minimum term of imprisonment of 30 days shall
18 be imposed for a third violation of subsection (c) of
19 Section 6-303 of the Illinois Vehicle Code.

20
21 (4.6) A minimum term of imprisonment of 180 days shall
22 be imposed for a fourth or subsequent violation of
23 subsection (c) of Section 6-303 of the Illinois Vehicle
24 Code.

25 (5) The court may sentence an offender convicted of a
26 business offense or a petty offense or a corporation or
27 unincorporated association convicted of any offense to:

28 (A) a period of conditional discharge;

29 (B) a fine;

30 (C) make restitution to the victim under Section
31 5-5-6 of this Code.

32 (5.1) In addition to any penalties imposed under
33 paragraph (5) of this subsection (c), and except as
34 provided in paragraph (5.2) or (5.3), a person convicted of
35 violating subsection (c) of Section 11-907 of the Illinois
36 Vehicle Code shall have his or her driver's license,

1 permit, or privileges suspended for at least 90 days but
2 not more than one year, if the violation resulted in damage
3 to the property of another person.

4 (5.2) In addition to any penalties imposed under
5 paragraph (5) of this subsection (c), and except as
6 provided in paragraph (5.3), a person convicted of
7 violating subsection (c) of Section 11-907 of the Illinois
8 Vehicle Code shall have his or her driver's license,
9 permit, or privileges suspended for at least 180 days but
10 not more than 2 years, if the violation resulted in injury
11 to another person.

12 (5.3) In addition to any penalties imposed under
13 paragraph (5) of this subsection (c), a person convicted of
14 violating subsection (c) of Section 11-907 of the Illinois
15 Vehicle Code shall have his or her driver's license,
16 permit, or privileges suspended for 2 years, if the
17 violation resulted in the death of another person.

18 (6) In no case shall an offender be eligible for a
19 disposition of probation or conditional discharge for a
20 Class 1 felony committed while he was serving a term of
21 probation or conditional discharge for a felony.

22 (7) When a defendant is adjudged a habitual criminal
23 under Article 33B of the Criminal Code of 1961, the court
24 shall sentence the defendant to a term of natural life
25 imprisonment.

26 (8) When a defendant, over the age of 21 years, is
27 convicted of a Class 1 or Class 2 felony, after having
28 twice been convicted in any state or federal court of an
29 offense that contains the same elements as an offense now
30 classified in Illinois as a Class 2 or greater Class felony
31 and such charges are separately brought and tried and arise
32 out of different series of acts, such defendant shall be
33 sentenced as a Class X offender. This paragraph shall not
34 apply unless (1) the first felony was committed after the
35 effective date of this amendatory Act of 1977; and (2) the
36 second felony was committed after conviction on the first;

1 and (3) the third felony was committed after conviction on
2 the second. A person sentenced as a Class X offender under
3 this paragraph is not eligible to apply for treatment as a
4 condition of probation as provided by Section 40-10 of the
5 Alcoholism and Other Drug Abuse and Dependency Act.

6 (9) A defendant convicted of a second or subsequent
7 offense of ritualized abuse of a child may be sentenced to
8 a term of natural life imprisonment.

9 (10) When a person is convicted of violating Section
10 11-501 of the Illinois Vehicle Code or a similar provision
11 of a local ordinance, the following penalties apply when
12 his or her blood, breath, or urine was .16 or more based on
13 the definition of blood, breath, or urine units in Section
14 11-501.2 or that person is convicted of violating Section
15 11-501 of the Illinois Vehicle Code while transporting a
16 child under the age of 16:

17 (A) For a first violation of subsection (a) of
18 Section 11-501, in addition to any other penalty that
19 may be imposed under subsection (c) of Section 11-501:
20 a mandatory minimum of 100 hours of community service
21 and a minimum fine of \$500.

22 (B) For a second violation of subsection (a) of
23 Section 11-501, in addition to any other penalty that
24 may be imposed under subsection (c) of Section 11-501
25 within 10 years: a mandatory minimum of 2 days of
26 imprisonment and a minimum fine of \$1,250.

27 (C) For a third violation of subsection (a) of
28 Section 11-501, in addition to any other penalty that
29 may be imposed under subsection (c) of Section 11-501
30 within 20 years: a mandatory minimum of 90 days of
31 imprisonment and a minimum fine of \$2,500.

32 (D) For a fourth or subsequent violation of
33 subsection (a) of Section 11-501: ineligibility for a
34 sentence of probation or conditional discharge and a
35 minimum fine of \$2,500.

36 (11) The court shall impose a minimum fine of \$1,000

1 for a first offense and \$2,000 for a second or subsequent
2 offense upon a person convicted of or placed on supervision
3 for battery when the individual harmed was a sports
4 official or coach at any level of competition and the act
5 causing harm to the sports official occurred within an
6 athletic facility or within the immediate vicinity of the
7 athletic facility at which the sports official or coach was
8 an active participant of the athletic contest held at the
9 athletic facility. The court shall require a person
10 convicted of or placed on supervision for a violation
11 described in this paragraph (11) to undergo an alcohol or
12 drug abuse evaluation. For the purposes of this paragraph
13 (11), "sports official" means a person at an athletic
14 contest who enforces the rules of the contest, such as an
15 umpire or referee and "coach" means a person recognized as
16 a coach by the sanctioning authority that conducted the
17 sporting event.

18 (d) In any case in which a sentence originally imposed is
19 vacated, the case shall be remanded to the trial court. The
20 trial court shall hold a hearing under Section 5-4-1 of the
21 Unified Code of Corrections which may include evidence of the
22 defendant's life, moral character and occupation during the
23 time since the original sentence was passed. The trial court
24 shall then impose sentence upon the defendant. The trial court
25 may impose any sentence which could have been imposed at the
26 original trial subject to Section 5-5-4 of the Unified Code of
27 Corrections. If a sentence is vacated on appeal or on
28 collateral attack due to the failure of the trier of fact at
29 trial to determine beyond a reasonable doubt the existence of a
30 fact (other than a prior conviction) necessary to increase the
31 punishment for the offense beyond the statutory maximum
32 otherwise applicable, either the defendant may be re-sentenced
33 to a term within the range otherwise provided or, if the State
34 files notice of its intention to again seek the extended
35 sentence, the defendant shall be afforded a new trial.

36 (e) In cases where prosecution for aggravated criminal

1 sexual abuse under Section 12-16 of the Criminal Code of 1961
2 results in conviction of a defendant who was a family member of
3 the victim at the time of the commission of the offense, the
4 court shall consider the safety and welfare of the victim and
5 may impose a sentence of probation only where:

6 (1) the court finds (A) or (B) or both are appropriate:

7 (A) the defendant is willing to undergo a court
8 approved counseling program for a minimum duration of 2
9 years; or

10 (B) the defendant is willing to participate in a
11 court approved plan including but not limited to the
12 defendant's:

13 (i) removal from the household;

14 (ii) restricted contact with the victim;

15 (iii) continued financial support of the
16 family;

17 (iv) restitution for harm done to the victim;

18 and

19 (v) compliance with any other measures that
20 the court may deem appropriate; and

21 (2) the court orders the defendant to pay for the
22 victim's counseling services, to the extent that the court
23 finds, after considering the defendant's income and
24 assets, that the defendant is financially capable of paying
25 for such services, if the victim was under 18 years of age
26 at the time the offense was committed and requires
27 counseling as a result of the offense.

28 Probation may be revoked or modified pursuant to Section
29 5-6-4; except where the court determines at the hearing that
30 the defendant violated a condition of his or her probation
31 restricting contact with the victim or other family members or
32 commits another offense with the victim or other family
33 members, the court shall revoke the defendant's probation and
34 impose a term of imprisonment.

35 For the purposes of this Section, "family member" and
36 "victim" shall have the meanings ascribed to them in Section

1 12-12 of the Criminal Code of 1961.

2 (f) This Article shall not deprive a court in other
3 proceedings to order a forfeiture of property, to suspend or
4 cancel a license, to remove a person from office, or to impose
5 any other civil penalty.

6 (g) Whenever a defendant is convicted of an offense under
7 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
8 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
9 of the Criminal Code of 1961, the defendant shall undergo
10 medical testing to determine whether the defendant has any
11 sexually transmissible disease, including a test for infection
12 with human immunodeficiency virus (HIV) or any other identified
13 causative agent of acquired immunodeficiency syndrome (AIDS).
14 Any such medical test shall be performed only by appropriately
15 licensed medical practitioners and may include an analysis of
16 any bodily fluids as well as an examination of the defendant's
17 person. Except as otherwise provided by law, the results of
18 such test shall be kept strictly confidential by all medical
19 personnel involved in the testing and must be personally
20 delivered in a sealed envelope to the judge of the court in
21 which the conviction was entered for the judge's inspection in
22 camera. Acting in accordance with the best interests of the
23 victim and the public, the judge shall have the discretion to
24 determine to whom, if anyone, the results of the testing may be
25 revealed. The court shall notify the defendant of the test
26 results. The court shall also notify the victim if requested by
27 the victim, and if the victim is under the age of 15 and if
28 requested by the victim's parents or legal guardian, the court
29 shall notify the victim's parents or legal guardian of the test
30 results. The court shall provide information on the
31 availability of HIV testing and counseling at Department of
32 Public Health facilities to all parties to whom the results of
33 the testing are revealed and shall direct the State's Attorney
34 to provide the information to the victim when possible. A
35 State's Attorney may petition the court to obtain the results
36 of any HIV test administered under this Section, and the court

1 shall grant the disclosure if the State's Attorney shows it is
2 relevant in order to prosecute a charge of criminal
3 transmission of HIV under Section 12-16.2 of the Criminal Code
4 of 1961 against the defendant. The court shall order that the
5 cost of any such test shall be paid by the county and may be
6 taxed as costs against the convicted defendant.

7 (g-5) When an inmate is tested for an airborne communicable
8 disease, as determined by the Illinois Department of Public
9 Health including but not limited to tuberculosis, the results
10 of the test shall be personally delivered by the warden or his
11 or her designee in a sealed envelope to the judge of the court
12 in which the inmate must appear for the judge's inspection in
13 camera if requested by the judge. Acting in accordance with the
14 best interests of those in the courtroom, the judge shall have
15 the discretion to determine what if any precautions need to be
16 taken to prevent transmission of the disease in the courtroom.

17 (h) Whenever a defendant is convicted of an offense under
18 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
19 defendant shall undergo medical testing to determine whether
20 the defendant has been exposed to human immunodeficiency virus
21 (HIV) or any other identified causative agent of acquired
22 immunodeficiency syndrome (AIDS). Except as otherwise provided
23 by law, the results of such test shall be kept strictly
24 confidential by all medical personnel involved in the testing
25 and must be personally delivered in a sealed envelope to the
26 judge of the court in which the conviction was entered for the
27 judge's inspection in camera. Acting in accordance with the
28 best interests of the public, the judge shall have the
29 discretion to determine to whom, if anyone, the results of the
30 testing may be revealed. The court shall notify the defendant
31 of a positive test showing an infection with the human
32 immunodeficiency virus (HIV). The court shall provide
33 information on the availability of HIV testing and counseling
34 at Department of Public Health facilities to all parties to
35 whom the results of the testing are revealed and shall direct
36 the State's Attorney to provide the information to the victim

1 when possible. A State's Attorney may petition the court to
2 obtain the results of any HIV test administered under this
3 Section, and the court shall grant the disclosure if the
4 State's Attorney shows it is relevant in order to prosecute a
5 charge of criminal transmission of HIV under Section 12-16.2 of
6 the Criminal Code of 1961 against the defendant. The court
7 shall order that the cost of any such test shall be paid by the
8 county and may be taxed as costs against the convicted
9 defendant.

10 (i) All fines and penalties imposed under this Section for
11 any violation of Chapters 3, 4, 6, and 11 of the Illinois
12 Vehicle Code, or a similar provision of a local ordinance, and
13 any violation of the Child Passenger Protection Act, or a
14 similar provision of a local ordinance, shall be collected and
15 disbursed by the circuit clerk as provided under Section 27.5
16 of the Clerks of Courts Act.

17 (j) In cases when prosecution for any violation of Section
18 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
19 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
20 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
21 Code of 1961, any violation of the Illinois Controlled
22 Substances Act, or any violation of the Cannabis Control Act
23 results in conviction, a disposition of court supervision, or
24 an order of probation granted under Section 10 of the Cannabis
25 Control Act or Section 410 of the Illinois Controlled Substance
26 Act of a defendant, the court shall determine whether the
27 defendant is employed by a facility or center as defined under
28 the Child Care Act of 1969, a public or private elementary or
29 secondary school, or otherwise works with children under 18
30 years of age on a daily basis. When a defendant is so employed,
31 the court shall order the Clerk of the Court to send a copy of
32 the judgment of conviction or order of supervision or probation
33 to the defendant's employer by certified mail. If the employer
34 of the defendant is a school, the Clerk of the Court shall
35 direct the mailing of a copy of the judgment of conviction or
36 order of supervision or probation to the appropriate regional

1 superintendent of schools. The regional superintendent of
2 schools shall notify the State Board of Education of any
3 notification under this subsection.

4 (j-5) A defendant at least 17 years of age who is convicted
5 of a felony and who has not been previously convicted of a
6 misdemeanor or felony and who is sentenced to a term of
7 imprisonment in the Illinois Department of Corrections shall as
8 a condition of his or her sentence be required by the court to
9 attend educational courses designed to prepare the defendant
10 for a high school diploma and to work toward a high school
11 diploma or to work toward passing the high school level Test of
12 General Educational Development (GED) or to work toward
13 completing a vocational training program offered by the
14 Department of Corrections. If a defendant fails to complete the
15 educational training required by his or her sentence during the
16 term of incarceration, the Prisoner Review Board shall, as a
17 condition of mandatory supervised release, require the
18 defendant, at his or her own expense, to pursue a course of
19 study toward a high school diploma or passage of the GED test.
20 The Prisoner Review Board shall revoke the mandatory supervised
21 release of a defendant who wilfully fails to comply with this
22 subsection (j-5) upon his or her release from confinement in a
23 penal institution while serving a mandatory supervised release
24 term; however, the inability of the defendant after making a
25 good faith effort to obtain financial aid or pay for the
26 educational training shall not be deemed a wilful failure to
27 comply. The Prisoner Review Board shall recommit the defendant
28 whose mandatory supervised release term has been revoked under
29 this subsection (j-5) as provided in Section 3-3-9. This
30 subsection (j-5) does not apply to a defendant who has a high
31 school diploma or has successfully passed the GED test. This
32 subsection (j-5) does not apply to a defendant who is
33 determined by the court to be developmentally disabled or
34 otherwise mentally incapable of completing the educational or
35 vocational program.

36 (k) A court may not impose a sentence or disposition for a

1 felony or misdemeanor that requires the defendant to be
2 implanted or injected with or to use any form of birth control.

3 (1) (A) Except as provided in paragraph (C) of subsection
4 (1), whenever a defendant, who is an alien as defined by
5 the Immigration and Nationality Act, is convicted of any
6 felony or misdemeanor offense, the court after sentencing
7 the defendant may, upon motion of the State's Attorney,
8 hold sentence in abeyance and remand the defendant to the
9 custody of the Attorney General of the United States or his
10 or her designated agent to be deported when:

11 (1) a final order of deportation has been issued
12 against the defendant pursuant to proceedings under
13 the Immigration and Nationality Act, and

14 (2) the deportation of the defendant would not
15 deprecate the seriousness of the defendant's conduct
16 and would not be inconsistent with the ends of justice.

17 Otherwise, the defendant shall be sentenced as
18 provided in this Chapter V.

19 (B) If the defendant has already been sentenced for a
20 felony or misdemeanor offense, or has been placed on
21 probation under Section 10 of the Cannabis Control Act or
22 Section 410 of the Illinois Controlled Substances Act, the
23 court may, upon motion of the State's Attorney to suspend
24 the sentence imposed, commit the defendant to the custody
25 of the Attorney General of the United States or his or her
26 designated agent when:

27 (1) a final order of deportation has been issued
28 against the defendant pursuant to proceedings under
29 the Immigration and Nationality Act, and

30 (2) the deportation of the defendant would not
31 deprecate the seriousness of the defendant's conduct
32 and would not be inconsistent with the ends of justice.

33 (C) This subsection (1) does not apply to offenders who
34 are subject to the provisions of paragraph (2) of
35 subsection (a) of Section 3-6-3.

36 (D) Upon motion of the State's Attorney, if a defendant

1 sentenced under this Section returns to the jurisdiction of
2 the United States, the defendant shall be recommitted to
3 the custody of the county from which he or she was
4 sentenced. Thereafter, the defendant shall be brought
5 before the sentencing court, which may impose any sentence
6 that was available under Section 5-5-3 at the time of
7 initial sentencing. In addition, the defendant shall not be
8 eligible for additional good conduct credit for
9 meritorious service as provided under Section 3-6-6.

10 (m) A person convicted of criminal defacement of property
11 under Section 21-1.3 of the Criminal Code of 1961, in which the
12 property damage exceeds \$300 and the property damaged is a
13 school building, shall be ordered to perform community service
14 that may include cleanup, removal, or painting over the
15 defacement.

16 (n) The court may sentence a person convicted of a
17 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
18 Code of 1961 (i) to an impact incarceration program if the
19 person is otherwise eligible for that program under Section
20 5-8-1.1, (ii) to community service, or (iii) if the person is
21 an addict or alcoholic, as defined in the Alcoholism and Other
22 Drug Abuse and Dependency Act, to a substance or alcohol abuse
23 program licensed under that Act.

24 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
25 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
26 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
27 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
28 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
29 eff. 1-1-04; revised 10-9-03.)

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.